

**PHARMACY EXAMINING BOARD
SEPTEMBER 23, 2009
MEETING MINUTES**

PRESENT: Timothy Boehmer, R.Ph.; Amy Mattila, R.Ph.; Suzette Renwick; Jeanne Severson, R.Ph.; Jason Walker-Crawford, R.Ph.; Gregory C. Weber, R.Ph.

EXCUSED: Pamela Phillips

STAFF: Tom Ryan, Bureau Director; Ruby Jefferson-Moore, DRL Board Counsel; Michelle Solem, Bureau Assistant; and other DRL Staff

GUESTS: Gary Plank, Marshfield Clinic; Michelle Solomon and Jon Badger, pharmacy students; Jamie Statz-Paynter, Dean Pharmacy; Nick Ladell, Melissa Evans, and Justin Kraemer, UW-Madison School of Pharmacy (SOP); Paul Baum, Group Health Cooperative of South Central Wisconsin (GHC-SCW); Stephen Seaman, Wisconsin Psychological Association (WPA); Donna Naundort and Kim Hopfensberger, Cardinal Health; Kurt Holm, Morton Pharmacy; Xin Ruppel, Marshfield Clinic Pharmacy; Tom Engels, Pharmacy Society of Wisconsin (PSW); Lisa Sobotkiewicz, Target Pharmacy; Eric Knox, Department of Corrections (DOC) and Jo Preston, Rural Wisconsin Health Cooperative (RWHC)

CALL TO ORDER

Gregory Weber, Board Chair, called the meeting to order at 9:06 a.m. A quorum of six members was confirmed.

APPROVAL OF AGENDA

Amendments:

Add F – change Secretary Jackson’s appearance to 9:30

At Item I change the rule to 7.095 from 7.09

Strike item J

Defer item after O - Board discussion of acceptable continuing education programs.

After Item K – add Oxygen One, Inc. item from red folder

Item QA – add Clean Sweep item from red folder

Item QB – add TCGRX application request item from red folder

Item U - Change case advisor on Bouchey from Mattila to Severson

MOTION: Jason Walker-Crawford moved, seconded by Jeanne Severson, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 22, 2009

Corrections:

Under guests, add a comma after Sarah Sorum and remove duplicate names.

MOTION: Jeanne Severson moved, seconded by Suzette Renwick, to approve the July 22, 2009 minutes as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

JON D. HENDRICH, R.PH.

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Jon D. Hendrich, R.Ph.

MATTHEW SYVERSON, R.PH.

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Matthew Syverson, R.Ph.

DOUGLAS BOUCHEY, R.PH.

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter Douglas Bouchee, R.Ph.

ERIN K. ORTH, R.PH.

Attorney Sandra Nowak, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Erin K. Orth, R.Ph.

ADMINISTRATIVE REPORT

Tom Ryan discussed the practice question procedure document included in the agenda packet. He asked that the board nominate 2 professional members to serve as practice question liaisons. Timothy Boehmer suggested that the ultimate responsibility for signing off on the response to the practice question would be that of legal counsel. Gregory Weber concurred, adding that he may consult with legal counsel as the question relates to the technical aspect. If the question is something that the Board Chair feels comfortable answering, the bureau director and/or legal counsel may provide that answer.

Elections

Elections will be held in the fall so that the new chair and vice-chair can attend the Board Chair training on December 3 & 4.

Discussion ensued regarding the case advisor training that was held on September 9, 2009. Gregory Weber asked that the Case Advisor Training Manual be placed on the website. He suggested that all new Board members should receive the information as soon as the appointment has been made official.

WISCONSIN PHARMACY FORUM

The Board discussed participating in this discussion forum, which will be comprised of the University of Wisconsin, School of Pharmacy, Concordia University School of Pharmacy, the Pharmacy Society of Wisconsin, and the Pharmacy Examining Board. The group would attempt to meet 3-4 times per year. It was the consensus of the Board that participation is desired.

MULTI-STATE PHARMACY JURISPRUDENCE EXAMINATION (MPJE) QUESTION REVIEW – OCTOBER 9-15, 2009

Jeanne Severson plans to participate remotely.

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY (NABP) COMMITTEE ON LAW ENFORCEMENT/LEGISLATION

NABP has asked Amy Mattila to serve on this committee. It is understood that the committee will discuss legislation and law enforcement that relates to the practice of pharmacy. Amy Mattila will report back to the Board about her activities with the committee.

MOTION: Jeanne Severson moved, seconded by Suzette Renwick, to appoint Amy Mattila as the Board representative on the National Association of Boards of Pharmacy Committee on Law Enforcement/Legislation. Motion carried unanimously.

ACCREDITATION COUNCIL FOR PHARMACY EDUCATION EVALUATION OF PRECANDIDATE STATUS – CONCORDIA UNIVERSITY SCHOOL OF PHARMACY NOVEMBER 9-11, 2009 – PHARMACY BOARD PARTICIPATION

Timothy Boehmer and Jason Walker-Crawford expressed an interest in serving on this committee.

MOTION: Timothy Boehmer moved, seconded by Jeanne Severson, to appoint Jason Walker-Crawford to serve as part of the Accreditation Council for Pharmacy Education's Evaluation of Pre-candidate Status at Concordia

University School of Pharmacy November 9-11, 2009. Motion carried unanimously.

SPEAKING ENGAGEMENT AND TRAVEL REQUESTS

Gregory Weber reminded the Board of the NABP Region IV meeting on November 11-13, 2009, at Southern Illinois University in Edwardsville, IL. Since the Board has already used its one trip per year, this meeting would be at Board member expense.

MOTION: Suzette Renwick moved, seconded by Timothy Boehmer, to delegate Amy Mattila as the official Wisconsin Pharmacy Examining Board representative at the NABP meeting November 11-13, 2009.

WIS. ADMIN. CODE § PHAR 4.02(2) RELATING TO THE PRACTICAL EXAM STATUS REPORT

Gregory Weber informed the Board that he testified before the legislature regarding this rule. Tom Ryan also testified last week in favor of an extension of the emergency rule. The rule will be effective November 1, 2009.

IMPAIRED PROFESSIONALS PROCEDURE (IPP) TASKFORCE RECOMMENDATIONS

Secretary Jackson delivered a PowerPoint presentation explaining the recommendations from the IPP taskforce, received Board member feedback and responded to questions. She distributed a handout of the slides.

PANDEMIC FLU PREPAREDNESS DISCUSSION OF POSSIBLE VARIANCES TO ADMINISTRATIVE RULES

The Board discussed its role in granting pandemic flu preparedness variances vis-à-vis the Wisconsin Department of Health Services.

It was noted that administrative rules can be suspended in the event of a public health emergency. The Board must be specific regarding which rules would need to be suspended in the event of such emergency. The Board noted that social distancing and technician ratio variances may need to be considered during the anticipated H1N1 flu pandemic. The Board agreed that Wis. Admin. Code s. PHAR 7.01 covers most of the variances that would be requested.

Gregory Weber suggested that a broader variance request should come from Department of Health Services (DHS). If a pharmacy needs a variance for an item other than those detailed in this kind of variance, then the pharmacy would need to request a separate variance. Gregory Weber indicated that pharmacies should be encouraged to anticipate the variance(s) they may need and have requests prepared sooner rather than later.

The Board also discussed Remote Dispensing – Wis. Stat. s. 450.02 (3m) and 450.062 as statutes that may need to be suspended in the event of a pandemic. This can be handled by the credentialing liaison.

The Board noted that the variance request form must be completed for any and all variance requests.

**VARIANCE REPORT – COMMUNITY MEMORIAL HOSPITAL
OCONTO FALLS, WI
APRIL – JUNE 2009, - JASON KNOX**

The variance report from Community Memorial Hospital, Oconto Falls, was reviewed.

**VARIANCE REQUEST – TECHNICIAN RATIO – MORTON PHARMACY
OSHKOSH, WI
KURT HOLM**

Kurt Holm, representing Morton Pharmacy, Oshkosh, answered questions from the Board.

MOTION: Jason Walker-Crawford moved, seconded by Amy Mattila, to grant the variance through March 1, 2011, for Pharmacy License No. 8866-42, for a technician ratio never to exceed 10:1 or a monthly average ratio of 4:1 and for Pharmacy License No. 7971-42 never to exceed 4:1. Reports are due to the Board in January and July of each year. Motion carried unanimously.

**WIS. ADMIN. CODE § PHAR 7.095
REMOTE DISPENSING
STATUS REPORT**

The Board reviewed the current draft of the remote dispensing rule that was distributed by DRL Rules Coordinator Pamela Haack and made amendments. Suggestions for additional changes will be routed to Tom Ryan, Jason Walker-Crawford, Ruby Jefferson-Moore and Pamela Haack by the close of business on Monday, September 28, 2009.

Pamela Haack informed the Board that the public hearing would be held at the December 2, 2009, Board meeting. This rule is on track for the Board to adopt the new rule at the February 2010 meeting with an effective date of April 1, 2010.

SUMMARY REPORTS ON ADMINISTRATIVE RULES

Tom Ryan reported on the status of the rules. There are three rules that were consolidated: PHAR 6.08, 7.12, and 8.12. Ruby Jefferson-Moore has forwarded the draft to Gregory Weber for his review.

BOARD REVIEW OF CURRENT AND FUTURE RULEMAKING AND LEGISLATIVE INITIATIVES

Gregory Weber offered a handout of suggested rulemaking and legislative initiatives. He asked that the Board prioritize this list and revisit on a regular basis. Gregory Weber will revise the list and update as necessary.

TCGRX

The pharmacy application for TCGRx was denied at the last meeting.

Linda Dawson, an attorney representing the Chudy Group LLC, appeared with Neville Dowell, CFO of TCGRx to address the Board. Timothy Boehmer indicated that the company was not practicing pharmacy and explained why the Board decided that the company is not eligible for a pharmacy license.

The Board agreed that the company must have a license to order and maintain possession of prescription drugs and suggested that a distributor license would be more appropriate. The Chudy Group asked to withdraw the pharmacy license application with the intention of submitting a distributor license application, and the Board agreed to allow the withdrawal.

HOME MEDICAL EQUIPMENT (HME) LICENSE

The Board discussed the regulatory challenges regarding distribution of oxygen. The Board reviewed a draft of a new regulatory structure proposed by the Wisconsin Association of Medical Equipment Services (WAMES). The Board discussed the legislation and decided to continue to track the issue and respond when a legislative draft is introduced in the legislature.

VARIANCE REQUEST FORMS

The Board deferred discussion on this until Kris Hendrickson is available. The Board asked that the forms be marked in such a way that proposed changes are evident.

PRACTICE QUESTION – PHARMACY STUDENTS PERFORMING IMMUNIZATIONS AT A FLU CLINIC JANET GIFFORD – UNIVERSITY OF MINNESOTA – E-MAIL REQUEST

The Board determined that if a student attends an ACPE accredited college or school of pharmacy and received credit for an immunization class, that class is considered an ACPE accredited course and therefore a student taking that class can perform immunizations.

**PRACTICE QUESTION – RULES AND REGULATIONS
ROBERT BROWER – E-MAIL REQUEST**

The Board determined that if a pharmacist is performing pharmacy services for a hospital in Wisconsin, that pharmacist must be licensed in Wisconsin whether or not the services are actually performed within the hospital.

**PRACTICE QUESTION – NURSES SIGNING FAXES
DEB SAEGER – E-MAIL REQUEST**

The Board determined that this question should be referred to the Medical Examining Board to determine if this is a delegatable medical act.

REGULATORY DIGEST

No report at this time.

DOE INSPECTION LIAISON REPORT

No report at this time.

QUALITY REVIEW COUNCIL REPORT

No report at this time. Gregory Weber stated that upcoming meeting dates for this council are: November 19, 2009, February 18, 2010 and May 20, 2010.

STATE COUNCIL ON ALCOHOL AND OTHER DRUG ABUSE REPORT

No report at this time.

PHARMACY TECHNICIAN CREDENTIALING

The Board deferred this topic.

ACCEPTABLE CONTINUING EDUCATION PROGRAMS

The Board deferred this topic.

LEGISLATIVE LIAISON REPORT

Jason Walker-Crawford reported to the Board on Senate Bills 180 and 198 and Assembly Bills 56, 241 and 227 as they relate to the Pharmacy Examining Board.

Senate Bill 180, relating to granting prescriptive authority to psychologists

Steve Seaman, WPA, addressed the Board to answer any questions regarding the information that he submitted relating to education and training in prescribing for psychologists. Steve

Seaman asked that the Board reconsider its opposition. Several Board members suggested that the additional information was helpful and that the position should be reconsidered. Steve Seaman indicated that there are some language issues relating to dispense and distribute that need to be corrected before the bill moves forward. The Board agreed to wait to finalize its position until such a time as the amendment has been attached to the Senate bill or until the Assembly bill is introduced.

Senate Bill 198, relating to donating drugs and dispensing donated drugs

It was noted that this bill did have a hearing. Its current status is unknown.

Assembly Bill 227, relating to directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority

This bill was passed with a substitute amendment on September 22.

Assembly Bill 241, relating to retail theft, proof of ownership for flea market sales

It was noted that a public hearing was held related to this bill.

Assembly Bill 56, relating to prohibiting the advertising of prescription drugs

Jason Walker-Crawford noted that he has is not aware of this bill having advanced.

Clean Sweep

Kevin Potter requested feedback from the Pharmacy Board regarding a “Clean Sweep” drug disposal program. There is a possibility that the information obtained could be used to draft legislation. Any comments will be forwarded to Tom Ryan. Gregory Weber asked that Tom Ryan forward all comments to the rest of the Board for review as well, if any are received.

**DRUG ENFORCEMENT ADMINISTRATION
MONTHLY DRUG THEFT AND LOSS REPORTS.**

The Board reviewed the monthly theft and loss reports received from the Drug Enforcement Administration.

PUBLIC COMMENTS

Tom Engels (PSW) inquired about the status of a letter from the PEB relating to the answers to the questions that PSW posed at the last meeting.

CLOSED SESSION

MOTION: Jeanne Severson moved, seconded by Timothy Boehmer, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. §

19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Timothy Boehmer-yes; Suzette Renwick-yes; Jeanne Severson-yes; Jason Walker-Crawford-yes; Gregory C. Weber-yes; Amy Mattila - yes. Motion carried unanimously.

Open session recessed at 2:31 p.m.

RECONVENE TO OPEN SESSION

MOTION: Jason Walker-Crawford moved, seconded by Timothy Boehmer, to reconvene into open session. Motion carried unanimously.

Open session reconvened at 3:25 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

APPLICATION REVIEW – MATTHEW J. KOLB – CHICAGO, IL

MOTION: Jeanne Severson moved, seconded by Amy Mattila, to deny the license application of Matthew J. Kolb based on Wis. Stats. S. 450.05, limitation or suspension in another state. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

JOHN HERDRICH, R.PH.

MOTION: Timothy Boehmer moved, seconded by Jason Walker-Crawford, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary matter concerning John Herdrich, R.Ph. Motion carried. Gregory Weber recused himself from deliberation and voting.

MATTHEW SYVERSON, R.PH.

MOTION: Suzette Renwick moved, seconded by Jeanne Severson, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary matter concerning Matthew Syverson, R.Ph. Motion carried. Gregory Weber recused himself from deliberation and voting.

DOUGLAS BOUCHEY, R.PH.

MOTION: Jason Walker-Crawford moved, seconded by Suzette Renwick, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the

disciplinary matter concerning Douglas Bouchey, R.Ph. Motion carried unanimously.

ERIN K. ORTH, R.PH.

MOTION: Timothy Boehmer moved, seconded by Jason Walker-Crawford, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary matter concerning Erin K. Orth, R.Ph. Motion carried unanimously. Gregory Weber recused himself from deliberation and the vote.

CASE CLOSINGS

06 PHM 023

MOTION: Suzette Renwick moved, seconded by Amy Mattila, to close case 06 PHM 023 for no violation. Motion carried unanimously. Gregory Weber recused himself from the deliberation and vote.

08 PHM 001

MOTION: Timothy Boehmer moved, seconded by Suzette Renwick, to close case 08 PHM 001 for insufficient evidence. Motion carried unanimously. Gregory Weber recused himself from the deliberation and vote.

09 PHM 018

MOTION: Amy Mattila moved, seconded by Suzette Renwick, to close case 09 PHM 018 for no violation. Motion carried unanimously.

MONITORING

**MICHAEL HILLER, R.PH.
REQUEST FOR FULL LICENSURE**

MOTION: Jeanne Severson moved, seconded by Suzette Renwick, to grant Michael Hiller's request for full licensure. Motion carried unanimously.

**KURT KIESLING
REQUEST FOR STAY OF SUSPENSION**

MOTION: Suzette Renwick moved, seconded by Jason Walker-Crawford to deny the request for a stay of suspension to Kurt Kiesling based on his noncompliance with sections C (14) (a), B (1) (f), B (1) (g) of the original order. Respondent cannot re-petition the Board until he is in compliance with sections C and D of the order for a minimum of 6 months at which

time respondent can re-petition the Board following B(1) of the original order . Motion carried unanimously.

ADJOURNMENT

MOTION: Jason Walker-Crawford moved, seconded by Jeanne Jeverson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:30 p.m.